

Idaho Public Utilities Commission

Case No. IPC-E-11-15, Order No. 32861

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PUC denies developer's motions in solar power case

The Idaho Public Utilities Commission is giving the developer of a proposed solar project near Grand View another week to show his project was willing and able to obligate itself to supply power to Idaho Power Company in 2011.

The federal Public Utility Regulatory Policies Act, or PURPA, requires utilities to buy energy from qualifying small renewable power projects at rates to be determined by state commissions.

The developer of the Grand View PV Solar Two project in Elmore County claims his project was ready to provide energy to Idaho Power, but the parties did not sign a sales agreement because they could not agree on who should receive the financial benefits of the Renewable Energy Credits (RECs) associated with the project. RECs are tradable environmental commodities, which represent proof that 1 megawatt-hour of electricity is generated from an eligible renewable energy resource. (In a separate case, the commission determined that revenue from REC sales be split 50-50 between the utility and the renewable energy provider for wind and solar projects that are 100 kilowatts or larger unless the parties mutually agree to treat REC sales differently.)

Grand View maintains that the dispute as to who should keep the revenue from the RECs is separate from whether Idaho Power is obligated under PURPA to buy output from the solar plant. The commission denied Grand View's motion for a declaratory order, stating that the manager of the project admitted that RECs are an integral part of the project's financial viability and that without the revenue from the RECs, the project was not ready to sell energy to Idaho Power.

In an affidavit filed with the commission, Grand View manager Robert Paul said the project's business plan is based upon selling all the RECs associated with the project and that without the ability to sell the RECs, the "project's financial viability will be compromised." He also said the project's profitability and his ability to raise the capital necessary to build the project would also be compromised.

"We find these statements undermine Grand View's argument that it was willing and able to mutually obligate itself to supply power," the commission said. However, the commission said that if Grand View can provide evidence that it created a legally enforceable obligation without conditions (such as

retaining all REC benefits), "then it may present such evidence to the commission within seven days," of the order's July 29 date.

The commission denied another request by Grand View Solar Two that the December 2012 commission decision to split RECs evenly between utilities and solar and wind projects not be applied to this case because the proposed sales agreement was offered in 2011.

However, the commission noted that REC ownership was the primary issue in an original complaint filed by Grand View Solar Two against Idaho Power. "It now suggests that we simply ignore the REC dispute – the very heart of Grand View's complaint, amended complaint and Motion for Summary Judgment," the commission said. "Grand View's argument to simply separate the REC dispute from the legally enforceable obligation issue is inconsistent with the facts and positions of the parties," the commission said.

Further, the commission said, both Grand View and Idaho Power were parties to the case that determined REC ownership and Grand View did not raise the issue or petition for judicial review at that time.

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